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EMILIO COLLADO

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

EMILIO COLLADO,  
Plaintiff,  
v.

LOCKHEED MARTIN, and DOES 1  
THROUGH 20, inclusive,  
Defendants.

Case No. C-07 05190 JF

**JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT AND  
[PROPOSED] CASE SCHEDULING  
ORDER**

Date: February 1, 2008  
Time: 10:30 a.m.  
Judge: Hon. Jeremy Fogel  
Courtroom: 3, 5<sup>th</sup> Floor

Trial Date: None

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, Defendant Lockheed Martin Corporation ("Lockheed Martin") and Plaintiff Emilio Collado hereby file this Case Management Conference Statement and request the Court to adopt it as its Case Management Order in this case.

JOINT CASE MANAGEMENT CONF.  
STATEMENT (C-07 05190 JF)

1 Defendant Lockheed Martin Corporation is represented by Michelle B. Heverly and  
 2 Todd K. Boyer<sup>8</sup>, both of Littler Mendelson, PC. Plaintiff Emilio Collado is represented by Stanley  
 3 G. Hilton, Law Offices of Stanley G. Hilton.

4 **A. Jurisdiction and Service**

5 Plaintiff Emilio Collado filed this matter in the Santa Clara County Superior Court on  
 6 August 14, 2007. On October 10, 2007, Defendant Lockheed Martin timely removed the case to this  
 7 Court on the basis of diversity jurisdiction. After Defendant filed its motion to dismiss and strike  
 8 portions of Plaintiff's complaint, the parties stipulated to allow Plaintiff to file a First Amended  
 9 Complaint. On January 3, 2008, Plaintiff filed his First Amended Complaint in this Court and  
 10 Defendant filed its Answer to Plaintiff's First Amended Complaint on January 22, 2008.

11 **B. Facts**

12 In his First Amended Complaint, Plaintiff claims that he was wrongfully terminated  
 13 on the basis of his disability, that Defendant breached an implied employment contract, and that  
 14 Defendant caused him emotional distress, all in connection with his employment with Defendant  
 15 Lockheed Martin and his termination from employment. Defendant denies Plaintiff's allegations,  
 16 and alleges that Plaintiff was properly terminated.

17 **C. Factual And Legal Issues**

- 18 1. Whether Plaintiff was employed by Defendant pursuant to an employment  
 19 agreement requiring anything other than at-will employment.
- 20 2. What the terms were of the alleged employment agreement.
- 21 3. Whether Defendant maintained a progressive discipline policy applicable to  
 Plaintiff's employment.
- 22 4. Whether Defendant engaged in a practice of not terminating employees except  
 23 for good cause.
- 24 5. Whether Defendant's actions breached the alleged employment agreement  
 between it and Plaintiff.
- 25 6. Whether Plaintiff's termination violated the terms of his alleged employment  
 26 agreement.
- 27 7. Whether Plaintiff suffered damages as a result of any breach of the alleged  
 employment agreement.
- 28 8. Whether Defendant discriminated against Plaintiff on the basis of his

1 disability.

2 9. Whether Plaintiff's termination was improperly based on his disability.

3 10. Whether Defendant caused Plaintiff damages by terminating his employment  
4 or whether any damages suffered by Plaintiff were because of his own  
misconduct.

5 11. Whether Plaintiff engaged in misconduct warranting termination during his  
6 employment with Lockheed Martin Corporation.

7 12. Whether Defendant engaged in a good faith and reasonable investigation prior  
to terminating Plaintiff's employment.

8 **D. Motions**

9 On October 15, 2007, Defendant filed a motion to dismiss Plaintiff's Fifth Cause of  
10 action for breach of the implied covenant of good faith and fair dealing, and strike the allegations in  
11 Plaintiff's complaint related to race and national origin discrimination as well as allegations of  
12 emotional distress related to Plaintiff's claim for breach of contract. Plaintiff agreed to amend his  
13 complaint to remove the allegations on which Defendant moved to dismiss and/or strike and filed an  
14 amended Complaint on January 3, 2008. Defendant intends to file a Motion for Summary Judgment  
15 once discovery is completed.

16 **E. Amendment of Pleadings**

17 The parties do not intend to amend their pleadings, however, if a party needs to  
18 amend, the parties request a deadline of March 1, 2008.

19 **F. Evidence Preservation**

20 Defendant suspended the routine destruction of electronically stored information to  
21 preserve evidence relevant to the issues reasonably evident in this action, and has preserved the  
22 information for production to Plaintiff, if necessary. Defendant has also secured, on a separate  
23 server, relevant electronic documents and other information currently in existence.

24 **G. Disclosures**

25 Pre-Discovery Disclosures: The will exchange initial disclosures required by Fed. R.  
26 Civ .P. 26(a)(1) on February 15, 2008.

27 **H. Discovery**

28 The parties propose to the court the following discovery plan:

1                   1.     **Plaintiff's Discovery Plan.**

2           Plaintiff believes that discovery will be needed on the following subjects:

- 3                   a.     Whether Plaintiff was discriminated against on the basis of his  
4                             disability.  
5                   b.     Whether Plaintiff's supervisor was aware of Plaintiff's disability.  
6                   c.     Whether Plaintiff's termination was pretextual.  
7                   d.     The attitude of Defendant towards disabled employees.

8                   2.     **Defendant's Discovery Plan.**

9           Defendant believes that discovery will be needed on the following subjects:

- 10                   a.     Plaintiff's job performance.  
11                   b.     The circumstances surrounding the misconduct that resulted in  
12                             Plaintiff's termination from employment.  
13                   c.     Plaintiff's mitigation efforts.  
14                   d.     All issues to be raised in Defendant's answer and affirmative defenses.

15                   3.     No limitation on Request for Admissions by each party to any other party.

16                   4.     Maximum of three (3) depositions by Plaintiff and three (3) by Defendant.

17                   5.     Each deposition shall be limited to a maximum of 7 hours unless extended by  
18           agreement of the parties. Defendant anticipates that it will need more than seven (7) hours to  
19           complete the deposition of Plaintiff, and requests that the Court grant additional time.

20                   6.     **Electronic Discovery.**

21           The parties will produce all electronically stored information in paper form unless the  
22           requesting party specifically requests the information in another form.

23                   **I.     Related Cases**

24           There are no related cases.

25                   **J.     Relief**

26           Plaintiff seeks monetary damages in the following amounts: \$3 million in  
27           compensatory and punitive damages. Plaintiff also seeks reinstatement.  
28

**K. Settlement Alternative Dispute Resolution**

The parties have filed a Stipulation and Proposed Order Selecting an ADR process, and the parties agreed on participating in the Court sponsored early neutral evaluation.

**L. Consent to Magistrate Judge for All Purposes**

The parties do not consent to assignment of this case to a Magistrate Judge for trial.

**M. Other References**

This case is not suitable for reference to binding arbitration, a special master, or the Judicial Panel on Multidistrict Litigation.

**N. Narrowing of Issues**

The issues in this case cannot be narrowed by agreement. The parties will meet and confer prior to trial to attempt to expedite the admission of evidence through stipulation.

**O. Expedited Schedule**

The parties do not believe this case is suitable for an expedited schedule.

**P. Scheduling**

Defendant requests the following case schedule:

- 11/14/08 - All non-expert discovery shall cut off.
- 12/03/08 - Disclosure and production of initial reports from retained experts for the parties under Fed. R. Civ. P. 26(a)(2) are to be served.
- 12/12/08 - Supplementary expert disclosure and reports to be served.
- 01/16/09 - Expert discovery shall cut-off.
- 03/27/09 – Deadline to file any dispositive motion.

**Q. Trial**

Defendant requests a trial date of July 20, 2009. Plaintiff requests a trial date in October 2008. Defendant does not believe that discovery will be completed by that date. The parties estimate the length of trial to be five to seven days.

**R. Disclosure of Non-Party Interested Entities or Persons**

Defendant has filed its "Certification of Interested Entities or Persons" as required by

Civil Local Rule 3-16. Defendant restates that it is not aware of any persons or entities that have either: (i) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding.

Dated: January 22, 2008

/s/ Stanley G. Hilton

STANLEY G. HILTON  
LAW OFFICES OF STANLEY G. HILTON  
Attorneys for Plaintiff  
EMILIO COLLADO

Dated: January 22, 2008

/s/ Michelle B. Heverly

MICHELLE B. HEVERLY  
TODD K. BOYER  
LITTLER MENDELSON  
A Professional Corporation  
Attorneys for Defendant  
LOCKHEED MARTIN CORPORATION

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**ORDER**

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

Dated: February \_\_\_\_\_, 2008

\_\_\_\_\_  
THE HONORABLE JEREMY FOGEL  
UNITED STATES DISTRICT JUDGE

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